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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/934,037	08/21/2001	Candace Freedenberg	82514MGB	7790

7590 12/01/2004
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EXAMINER

THEIN, MARIA TERESA T

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 12/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/934,037

Applicant(s)

FREEDENBERG ET AL.

Examiner

Marissa Thein

Art Unit

3627

NW

Period for Reply - The MAILING DATE of this communication appears on the cover sheet with the correspondence address -

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on January 30, 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Oath/Declaration

The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:
It does not include the other two inventors' signature.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-39 and 42 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1-39 and 42 have no connection to the technological arts. Some of the steps do not indicate any connection to a computer or technology. For example in claim 1, the body of the claim is a trivial use of the technology. The recitation "the selecting.....a desired geospatial area" is via an on-line, interactive man-machine interface, however the method of "receiving earth imager metadata from a plurality of earth imager content providers"; "overlaying the earth imagery metadata on a mapping application"; "a user interacting over a channel with...."; "viewing a price quotation..."; and "accepting the price quotation....." have no structural or functional interrelationship with these method steps, which could all be performed manually by a person.

Therefore, the claim is directed towards non-statutory subject matter. The other claims

above are similarly rejected. To overcome this rejection the Examiner recommends the Applicant amend the claims to better clarify which of the steps are being performed within the technological arts, such as --receiving earth imagery metadata from a plurality of earth imagery content providers via computer network--. *Ex parte Bowman*, 61 USPQ2d 1665, 1671 (BD, Pats. App. & Inter. 2001). See MPEP 2106 IV 2(b)

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-11, 13-20, and 22-42 are rejected under 35 U.S.C. 102(b) as being anticipated by over the website www.digitalglobe.com (Digital Globe).

Regarding claims 1 and 40-41, Digital Globe discloses a method, computer storage medium and a computer program product for offering for purchase earth imagery content of a user-selected desired geospatial area (Digital Globe Navigator™ On-line Catalog ordering tool; page 73; page 36), comprising: receiving earth imagery metadata from a plurality of earth imagery content providers (page 39; page 73); overlaying the earth imagery metadata on a mapping application (image production, pages 94-97); a user interacting over a channel with the mapping application, the user locating a geographical area via the mapping application and selecting via an on-line, interactive man-machine interface a desired geospatial area represented by one or

more user defined polygons (pages 77-79; pages 94-97); converting the user-selected geospatial area represented by one or more polygons to a data string (pages 63-67); transmitting the data string over a channel to a fulfillment provider (pages 146-148); and the fulfillment provider generating a photo product of the desired geospatial area in a format selected by the user (pages 146-148).

Regarding claims 2-3 and 8-11, Digital Globe discloses the data string includes a name specified by the user, an earth imagery content provider code, a year in which the earth imagery content provider acquired the earth imagery content, and geospatial position of earth imagery content (product information; pages 93-99).

Regarding claims 4-7 and 13-16, Digital Globe discloses one or more polygons are identified by polygon points in the form of longitude and latitude coordinates and is communicated by digital file containing user's desired area (product types; geographic projection is customer-specified; pages 65-66); Internet and a local server with direct remote access capability (the website www.digitalglobe.com); the photo product is a digital image or one printed image (image support data for processing application such as digital photogrammetry, image analysis, and multispectral analysis; pages 65-66); delivering the photo product to the user in the format selected by the user (delivery of the products that the data delivered will be of the area of interest ordered); and delivered to the user on a computer readable storage medium (product delivery, media, CD-Rom; page 66).

Regarding claims 17-20, Digital Globe discloses offering the user a choice of photo products; the choice of products presented to user varies with the desired

geospatial area selected; the choice of photo products presented to the user varies with the geospatial area and/ or format selected; and a price and a delivery time and a location of the fulfillment are dependent on the desired geospatial area and format selected (see at least pages 63-66; pricing information, page 149).

Regarding claims 22-32 and 38-39, Digital Globe discloses allowing the user to select stereo and mono coverage (see at least pages 63-70); allowing the user to purchase planned imagery (see at least pages 63-70); the on-line, interactive man-machine interface enables viewing of referenced selection and metadata throughout decision process (viewing parameters; pages 126-128; pages 63-66); capturing unique ID's relating to the desired geospatial area selected by the user from a back-end system access (pages 65-67); the user selects from earth imagery content available differentiated by year, color versus Black & white, resolution, scale or precision processed form (imagery specification, pages 62-63; product types, pages 65-67; images, page 76); delivering the photo product to the user (delivery, page 147); the channel is an intranet site located on a local server with periodic updates (Digital Globe™ archive is continually updated with new EarthWatch and partner-supplied geographic data, page 145); offering to allow payment for the product via the channel (credit and billing pages 146-147); generating the photo product of the desired geospatial area for earth imagery content using the fulfillment data string combined with the fulfillment metadata of the earth imagery content selected (pages 146-148; pages 65-66); the delivering step is performed by mail, e-mail of digital file, FTP of digital file, on-line view, on-line download, or on-line use of digital file within desktop applications

(product delivery options, page 66); and the user defines the format of the photo product with respect to a level of processing, a geographical projection, a software reading format, and a delivery means (pages 63-70); the content providers control quality and accuracy of the display of earth imagery content over the channel through on-line upload and verification of the earth imagery content (pages 63-70; page 74); and the desired geospatial area represented by one or more user defined polygons is substantially infinitely variable as to a location, a size and a shape (pages 63-70).

Regarding claims 33-35, Digital Globe discloses the photo product is defined by: geographical projection selected; and a software reading format selected; a delivery means selected (pages 63-70).

Regarding claims 36-37, Digital Globe discloses the data string is transmitted as an http request, sent by FTP; and the data string automatically populates a database via an html form (page 73).

Regarding claim 42, Digital Globe discloses a method for offering for purchase user-selected earth imagery content of a desired geospatial area (Digital Globe Navigator™ On-line Catalog ordering tool; page 73; page 36), comprising: receiving earth imagery metadata from a plurality of earth imagery content providers (page 39; page 73); overlaying the earth imagery metadata on a mapping application (image production, pages 94-97); a user communicating over a channel with the service provider (EarthWatch), the user locating a geographical area via the mapping application and dynamically selecting via an on-line, interactive man-machine interface a desired geospatial area represented by one or more user defined polygons (pages 77-

79; pages 94-97); converting the user-selected geospatial area represented by one or more polygons to a data string (pages 63-67); transmitting the data string over a channel to a fulfillment provider (pages 146-148); and the fulfillment provider generating a photo product of the desired geospatial area in a format selected by the user (pages 146-148).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over the website www.digitalglobe.com (Digital Globe) in view of U.S. Patent Application No. 2001/0049648 to Naylor et al. Digital Globe substantially discloses the claimed invention, however, it does not disclose the bid. Digital Globe discloses a request to purchase the images (pages 146-148).

Naylor, on the other hand, teaches an electronic marketplace for selling and auctioning off display rights to digital imagery (Abstract). Prospective buyers can view digital images and bid for the right to display the images (bid) (Abstract).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Digital Globe, to include the bid,

as taught by Naylor, in order to maximize revenue of the owner of the digital image (Naylor, paragraph 9).

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over the website www.digitalglobe.com (Digital Globe) in view of U.S. Patent No. 5,956,027 to Krishnamurthy. Digital Globe substantially discloses the claimed invention, however, it does not disclose the allowing the user to share a view with another party over the channel. Digital Globe discloses "viewing parameters" and "using information from our web site" (page 126-128).

Krishnamurthy, on the other hand, teaches a method of sharing an interesting WWW page with other users who have interest in the subject matter (allow the user to hare a view with another party over the channel) (abstract).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Digital Globe, to include the allowing the user to share a view with another party over the channel, as taught by Krishnamurthy, in order for a user to share with others a common subject matter interests (Krishnamurthy, col. 1, lines 38-40).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 5,634,012 to Stefik et al. discloses a fee accounting mechanism for reporting fees associated with the distribution and use of digital works.

U.S. Patent No. 6,125,329 to Place et al. discloses a method for massive geodetic block triangulation resulting in determining orthorectification coefficients for the creation of wide-ranging, highly accurate maps of the surface of celestial bodies.

U.S. Patent No. 6,597,818 to Kumar et al. discloses a method for accurately mapping between image coordinates and geo-coordinates.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marissa Thein whose telephone number is 703-305-5246. The examiner can normally be reached on M-F 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on 703-308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mtot
November 28, 2004

 11/29/04
MICHAEL CUFF
PRIMARY EXAMINER